
U.S. Department of Labor

Office of Administrative Law Judges
11870 Merchants Walk - Suite 204
Newport News, Virginia 23606



Issue Date: 21 May 2003

Case No.: 2002-ERA-0020

JOHN C. MOORE,
Complainant,

v.

ENERGY NORTHWEST,
and

CRANE NUCLEAR, INC.,
Respondents.

John T. Burhans, Esq.
Counsel for Complainant John C. Moore

Marty Denis, Esq.
Counsel for Respondent Crane Nuclear, Inc.

Donn C. Meindertsma, Esq.
Counsel for Respondent Energy Northwest

**RECOMMENDED ORDER APPROVING SETTLEMENT AND DISMISSING
COMPLAINT**¹

This case arises under the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. §5851 (1988 and Supp. IV 1992). The parties submitted a Settlement Agreement and General Release seeking approval of the settlement and dismissal of the complaint.

The request for approval is based on an agreement entered into by the parties. I must review it to determine whether the terms are fair, adequate and reasonable settlement of the complaint. 29 C.F.R. §24.6. *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. U. S. Department of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order. March 23, 1989, Slip op. At 1-2. The settlement must adequately protect 333 (Federal/Energy/Regulatory Commission, 1982). Furthermore, the settlement must not be

contrary to public interest. *Heffley v. NCK Metals Corp.*, 89-SDW-2 (Sec'y, March 6, 1990).

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The agreement designates specific information as confidential commercial information to be handled as provided at 29 C.F.R. §70.26(b) (1991). Thus, Respondents request that the Secretary of Labor retain the Settlement Agreement in confidence to the full extent permitted by law.²

I note that all parties are represented by Counsel. My review of the settlement agreement convinces me that the terms are fair, adequate, and constitute a reasonable settlement of the complaint. The settlement appears to adequately protect the whistleblower and does not appear to be contrary to public interest. Accordingly, **IT IS RECOMMENDED** that the settlement agreement be **APPROVED** and the **COMPLAINT** be **DISMISSED WITH PREJUDICE**.

Daniel A. Sarno, Jr.
Administrative Law Judge

DAS/dlh

NOTICE: This Recommended Decision and Order will automatically become the final order of the Secretary unless, pursuant to 29 C.F.R. § 24.8, a petition for review is timely filed with the Administrative Review Board, United States Department of Labor, Room S-4309, Frances Perkins Building, 200 Constitution Avenue, NW, Washington, DC 20210. Such a petition for review must be received by the Administrative Review Board within ten business days of the date of this Recommended Decision and Order, and shall be served on all parties and on the Chief Administrative Law Judge. *See* 29 C.F.R. §§ 24.7(d) and 24.8.

[ENDNOTES]

¹This recommended Order Approving Settlement and Dismissing Complaint becomes final if not appealed within ten (10) days. *See* 29 C.F.R. §24.6(f)(1).

²It is not necessary that the settlement agreement be part of the final order. Macktal v. Brown Root, Inc., Case No. 86-ERA-23, Order to Submit Settlement Agreement issued May 11, 1956, Slip Op. At 2. Decisions to disclose information specifically designed as confidential commercial information are made pursuant to the Department of Labor regulations implementing the Freedom of Information Act. Debose v. Caroline Power, supra; 29 C.F.R. §§ 70.26(b), (c), (e), (f); 5 U.S.C. §552 (1988).